

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD
Plaintiff,

v.

TIMOTHY CALLAHAN,
FRANCIS M. ROACHE,
PAUL MURPHY,
RICHARD WALSH, and
THE CITY OF BOSTON,
Defendants.

C.A. NO.: 04-11193NG

**SUPPLEMENTAL PROPOSED JURY INSTRUCTION OF DEFENDANT
TIMOTHY CALLAHAN – PROXIMATE CAUSE**

REQUEST NO. 1

Review of Prior Jury's Deliberations

As you have learned, you will have before you the trial transcript from the 1989 criminal trial that is at issue in this case. You are to presume that the jury enpaneled in 1989, and the Court conducting that trial, acted according to the law, and reasonably, conscientiously and impartially applied the legal standards that governed their decision.

You must take the unaffected and unchallenged findings as a given, and you must consider the totality of the evidence presented to that jury, in making your assessment of whether the evidence challenged by Plaintiff (if indeed you find that the evidence he identifies was withheld or manufactured) was a substantial factor in causing his conviction.

Strickland v. Washington, 466 U.S. 668 (1984)

REQUEST NO. 2

Plaintiff has the burden of proving that the constitutional violation you have identified is the proximate cause of the damages he has sustained – in other words, he must prove, by a preponderance of the evidence, that the failure to disclose that Defendant Callahan provided a sum of money to Ricky Evans was a substantial factor in causing his conviction.

Gutierrez-Rodriguez v. Cartagena, 882 F.2d 553, 559 (1st Cir. 1989)
Maldonado Santiago v. Velasquez Garcia, 821 F.2d 822, 831 (1st Cir. 1987)

Defendant,
TIMOTHY CALLAHAN,
By his attorney,

/s/ Mary Jo Harris

Mary Jo Harris (BBO# 561484)
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DATED: April 14, 2008

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 14th day of April, 2008, I electronically filed with within document with the Clerk of the United States District Court for the District of Massachusetts, using the CM/ECF System. The following participants have received notice electronically:

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